

AMENDMENT UNDER 37 C.F.R. § 1.114(c)
U.S. APPLN. NO. 09/938,585
ATTORNEY DOCKET NO. Q65648

REMARKS

Claims 1, 3, 5-9 and 12-16 have been examined on their merits.

Applicant thanks the Examiner for initialing the references listed on the PTO/SB/08 A & B form submitted with the Information Disclosure Statement filed on November 8, 2004 and returning an initialed copy of the PTO/SB/08 A & B form, thereby confirming that the listed references have been considered.

Claims 1, 3, 5-9 and 12-16 are all the claims presently pending in the application.

1. Claims 1, 3, 5, 7-9, 12, 13, 15 and 16 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Levinson (U.S. Patent No. 5,019,769). Applicant respectfully traverses the § 102(b) rejection of claims 1, 3, 5, 7-9, 12, 13, 15 and 16 for at least the reasons discussed below.

To support a conclusion that a claimed invention lacks novelty under 35 U.S.C. § 102, a single source must teach all of the elements of a claim. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379 (Fed. Cir. 1986). A claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). A single source must disclose all of the claimed elements arranged as in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). Thus, the cited reference must clearly and unequivocally disclose every element and limitation of the claimed invention.

Levinson fails to teach or suggest at least obtaining a differential value between a currently value recently stored in a memory and the newly detected current value, and storing the newly detected current in the memory, as recited in claim 1. Instead, Levinson discloses a laser diode controller (162) that measures the current flowing through the emitter of a transistor (182). *See, e.g.*, col. 5, lines 1-14; Fig. 5 of Levinson. When the laser diode controller determines that the drive current for generating a predefined level of optical output power exceeds the *original* level of drive current needed, the controller will generate a warning message that device failure is imminent. *See* col. 9, lines 6-14 of Levinson. Levinson fails to teach or suggest, however, storing the detected current values, and comparing a newly detected current value, comparing it to a recently stored current value and storing the newly detected current value. Instead, Levinson uses the original level of the drive current needed for making its comparisons, and that original level is never updated.

Based on the foregoing reasons, Applicant submits that Levinson fails to teach or suggest all of the claimed elements as arranged in claim 1. Thus, Applicant submits that claim 9 is allowable, and further submits that 3, 5 and 7 are allowable as well, at least by virtue of their dependency from claim 1. Applicant respectfully requests that the Patent Office reconsider and withdraw the § 102(b) rejection of claims 1, 3, 5 and 7.

With respect to independent claims 8 and 16, Applicant submits that claims 8 and 16 are allowable for at least reasons analogous to those discussed for claim 1. Thus, Applicant submits that claim 8 and 16 are allowable, and respectfully requests that the Patent Office reconsider and withdraw the § 102(b) rejection of claims 8 and 16.

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With respect to independent claim 9, Applicant submits that claim 9 is allowable for at least reasons analogous to those discussed for claim 1. Thus, Applicant submits that claim 9 is allowable, and further submits that claims 12, 13 and 15 are allowable as well, at least by virtue of their dependency from claim 9. Applicant respectfully requests that the Patent Office reconsider and withdraw the § 102(b) rejection of claims 9, 12, 13 and 15.

2. Claims 6 and 14 stand rejected under 35 U.S.C. § 103(a) as allegedly being oblivious over Levinson. Applicant traverses the rejection of claims 6 and 14 for at least the reasons discussed below.

Claim 6 depends from independent claim 1. As discussed with respect to the § 102(b) rejection of claim 1, Levinson fails to teach or suggest all of the recitations of claim 1. Therefore, Applicant submits that claim 6 is allowable at least by virtue of its dependency from claim 1. Applicant respectfully requests that the Patent Office withdraw the § 103(a) rejection of claim 6.

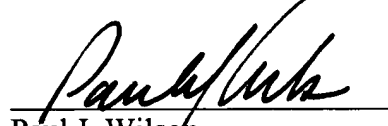
Claim 14 depends from independent claim 9. As discussed with respect to the § 102(b) rejection of claim 9, Levinson fails to teach or suggest all of the recitations of claim 9. Therefore, Applicant submits that claim 14 is allowable at least by virtue of its dependency from claim 9. Applicant respectfully requests that the Patent Office withdraw the § 103(a) rejection of claim 14.

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In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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